

REMARKS

Claims 1-76 are pending. In the Office Action dated June 6, 2006, the Examiner imposed a restriction with respect to claims 1-22 and 53-76, and withdrew claims 23-52 from consideration as drawn to non-statutory subject matter.

Claims 1-76 are canceled herein without prejudice, rendering moot the restriction requirement. Applicant reserves the right to pursue the subject matter of the canceled claims in one or more related applications. New claims 77-82 have been added. Accordingly, following entry of the amendments made herein, claims 77-82 will be pending in the present application.

Support for the new claims may be found in the present application, *inter alia*, at paragraphs [0026] and [0028] of U.S. Patent Publication No. US 2005-0261489 A1 (corresponding to paragraphs [0019] and [0021] of the specification as filed), in claims 1, 23, 25 and 27 as filed, in Example 3 of the specification, and in the Statement Of Applicant Regarding Permanence And Availability Of Deposited Microorganisms, originally submitted on October 15, 2002 in connection with parent application no. 09/509,283.

No new matter is added by the amendments made herein.

COMPLIANCE WITH SEQUENCE LISTING REQUIREMENTS

The Examiner objects to the application as containing sequence disclosures that do not comply with 37 C.F.R. §§ 1.821-1.825. In particular, the Examiner notes that the sequences in claim 53 are not accompanied by SEQ ID Numbers, and requested that Applicant review the specification for additional sequence disclosures that do not comply with 37 C.F.R. §§ 1.821-1.825.

In view of the cancellation of claim 53, the Examiner's objection to claim 53 is moot. Moreover, Applicant has reviewed the remainder of the specification and believes it to be in compliance with 37 C.F.R. §§ 1.821-1.825.

CONCLUSION

Applicant respectfully requests that the amendments and remarks made herein be entered and made of record in the file history of the subject application.

Respectfully submitted,

Date

September 7, 2006

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by: *Muna Abu Shaan*
Limited Recognition
(10012)

Express Mail No.: Hand Delivery**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Richard KroczeK

Confirmation No.: 7620

Application No.: 09/509,283

Group Art Unit: 1644

Filed: August 11, 2000

Examiner: J. Roark

For: ANTI-HUMAN COSTIMULATING T-CELL
POLYPEPTIDE MONOCLONAL
ANTIBODIES

Attorney Docket No.: 7853-215

**STATEMENT OF APPLICANT REGARDING PERMANENCE
AND AVAILABILITY OF DEPOSITED MICROORGANISMS**

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

I, Richard KroczeK, Applicant of the above-identified application, declare and state:

1. That hybridoma 8F4, secreting native monoclonal antibody 8F4, was deposited with the Deutsche Sammlung Von Mikroorganismen und ZellKulturen GmbH ("DSMZ"), at Mascheroder Weg 1b, D-3300 Braunschweig, Germany, on April 9, 2002, in compliance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure on my own behalf and on the behalf of the Bundesrepublik Deutschland, jetztvertreten durch den Direktor des, Robert-Koch-Institutes, having a place of business at Nordufer 20, D-13353 Berlin, Germany, present assignee of the application. The

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deposited hybridoma was assigned DSMZ accession number DSM ACC2539. A copy of the Receipt of Deposit is attached hereto as Exhibit 1.

2. That I participated in and supervised the production and maintenance of the hybridoma designated 8F4 which was deposited with the DSMZ on April 9, 2002 and assigned DSMZ accession number DSM ACC2539.

3. That I confirm and corroborate that the hybridoma 8F4 deposited on April 9, 2002 with the DSMZ and assigned DSMZ accession number DSM ACC2539, which produces the monoclonal antibody 8F4, is the same hybridoma that was described in the specification of the above-identified application in Examples 1-8 at pages 11-19.

4. I hereby assure the United States Patent and Trademark Office and the public that (a) all restrictions on the availability to the public of the hybridoma referred to in paragraph 1 will be irrevocably removed upon issuance of a United States patent making reference to the hybridoma; (b) the hybridoma will be maintained for a period of at least five years after the most recent request for the furnishing of a sample of the deposited hybridoma was received by the DSMZ and, in any case for a period of at least 30 years after the date of deposit; (c) should the deposit become non-viable it will be replaced; and (d) access to the hybridoma will be available to the Commissioner during the pendency of the patent application or to one determined by the Commissioner to be entitled to the hybridoma under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

5. I declare further that all statements made in this Declaration of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date

October 8, 2002

M. Kroczeck

Richard Kroczeck, M.D.

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EXHIBIT 1

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BUDAPEST TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

Robert Koch-Institut
Nordufer 20
13353 Berlin

VIABILITY STATEMENT
issued pursuant to Rule 10.2 by the
INTERNATIONAL DEPOSITARY AUTHORITY
identified at the bottom of this page

I. DEPOSITOR		II. IDENTIFICATION OF THE MICROORGANISM	
Name: Robert Koch-Institut Nordufer 20 Address: 13353 Berlin		Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: DSM ACC2539 Date of the deposit or the transfer: 2002-04-09	
III. VIABILITY STATEMENT			
The viability of the microorganism identified under II above was tested on 2002-04-09 On that date, the said microorganism was <input checked="" type="checkbox"/> (x) viable <input type="checkbox"/> () no longer viable			
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED			
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Name: DSMZ-DEUTSCHE SAMMLUNG VON MICROORGANISMEN UND ZELLKULTUREN GmbH Address: Mascherode Weg 1b D-38124 Braunschweig		Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <i>V. Weis</i> Date: 2002-04-16	

1. Indicate the date of original deposit or, where a new deposit or a transfer has been made, the most recent relevant date (date of the new deposit or date of the transfer).
2. In the cases referred to in Rule 10.2(a) (II) and (III), refer to the most recent viability test.
3. Mark with a cross the applicable box.
4. Fill in if the information has been requested and if the results of the test were negative.

Form DSMZ-BF/9 (sole page) 12/2001

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